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September 9, 2016

BY ECF AND FAX

Hon. Paul G. Gardephe
United States District Court
Southern District of New York
40 Foley Square, Room 2240
New York, New York 10007

Re: 3M Company v. HSBC Bank USA, N.A.; 16 Civ. 5984

Dear Judge Gardephe:

We are counsel for plaintiff 3M Company (“3M”). We provide this letter to set forth the limited, immediate discovery that 3M has requested be permitted.

We seek limited discovery concerning the subjects listed on Attachment A from defendant HSBC Bank USA, N.A. (“HSBC”) and from non-party Ziraat Bank (“Ziraat”). As to HSBC, we request permission to serve a document request and take a 30(b)(6) deposition. As to Ziraat, we request permission to serve a subpoena for both documents and 30(b)(6) deposition testimony.

We believe this limited discovery will assist us in answering the Court’s questions concerning the connection between the letters of credit and performance guarantees at issue, the role of Aktif,¹ and the transfer of funds from PTT² to Vendeka,³ as well as provide further evidence of fraud.

¹ Aktif refers to Aktif Yatirim Bankasi A.S.

² PTT refers to the Turkish General Directorate of Post and Telegraph Organization and/or the General Directorate of Highways of the Ministry of Transport and Communication.

³ Vendeka refers to Vendekabilgi Teknolojileri Ticaret Ltd. Sti.

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If the Court permits this limited discovery, we ask that it be ordered to proceed on an expedited basis because of the September 23, 2016 deadline for 3M to make an additional submission in support of its motion for a preliminary injunction. We propose the following expedited schedule: service of a document request and deposition notice to HSBC and a subpoena to Ziraat on or before September 13, documents to be produced on or before September 19, and depositions to be held on September 20 and 21.

Respectfully yours,



Beth L. Kaufman

cc: David Rabinowitz, Esq. (by ECF)

Attachment A

1. The October 30, 2012 letter of credit issued by HSBC for the benefit of Ziraat and the November 5, 2012 amendment to that letter of credit, including the reason(s) for and communications concerning the issuance and amendment.
2. Ziraat's demand for payment from HSBC, including explanations or reasons as to the right or lack thereof to demand such payment.
3. The letter of credit issued by Ziraat for the benefit of Aktif, including the reason(s) for and communications concerning the issuance.
4. Aktif's demand for payment from Ziraat, including explanations or reasons as to the right or lack thereof to demand such payment.
5. The basis on which the HSBC letter of credit to Ziraat and the letter of credit issued by Ziraat to Aktif were used to secure payment on the performance guarantee issued by Aktif in favor of PTT.
6. The performance guarantee issued by Aktif for the benefit of PTT, including the reason(s) for and communications concerning the issuance.
7. PTT's demand for payment from Aktif, including explanations or reasons as to the right or lack thereof to demand such payment.
8. PTT's receipt of payment from Aktif and subsequent return of such payment.
9. Any instructions from PTT to Ziraat concerning the deposit to PTT's account at Ziraat of funds received by PTT from Aktif and the alleged transfer of those funds from Ziraat to Vendeka (or to any other person or entity).
10. PTT's deposit of the payment received from Aktif into an account at Ziraat, the return or transfer of those funds to any entity or person (including Vendeka), and Ziraat's payment to Aktif following Aktif's demand for payment.
11. Communications among or involving PTT, Aktif, and Ziraat concerning PTT's drawdown of the performance guarantee issued by Aktif.
12. The reason(s) for and timing of PTT's transfer of funds to Vendeka.
13. Extensions or requests to extend the expiration dates of the letters of credit or performance guarantees at issue.
14. Performance by Vendeka, as well as any default or declaration of default, with respect to PTT's Electronic Toll Collection System Project (a/k/a the HGS Project).
15. Agreements between HSBC and Ziraat related to 3M's application for a letter of credit or to the performance intended to be secured by 3M's application for a letter of credit.